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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/802,699	03/08/2001	Robert Jusinski	JUS-101	6878

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LUMEN INTELLECTUAL PROPERTY SERVICES  
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SUITE 200  
PALO ALTO, CA 94306

EXAMINER

SNIDER, THERESA T

ART UNIT	PAPER NUMBER
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1744

DATE MAILED: 06/20/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

AS-4

# Office Action Summary

Application No.

09/802,699

Applicant(s)

JUSINSKI, ROBERT

Examiner

Theresa T. Snider

Art Unit

1744

-- Th MAILING DATE of this communication app ars on the cov r sh et with the correspond nce address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 10 May 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 March 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2. 6) ☐ Other:

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: 323(page 10, line 17) and 322(page 12, line 16). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.
2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference characters "324"(page 10, line 13) and "326"(page 12, line 17) have both been used to designate first right shoulder point. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.
3. The drawings are objected to because page 13, line 10, '13C' is disclosed as being a 'base edge' however in figure 2 is appears to illustrating an angle. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.
4. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "53" has been used to designate both scrubbing device contour(page 14, line 3) and soaping device contour(page 14, line 11). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Art Unit: 1744

5. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference sign(s) not mentioned in the description: 13(fig. 2) and 314(fig. 3). A proposed drawing correction, corrected drawings, or amendment to the specification to add the reference sign(s) in the description, are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### *Specification*

6. The disclosure is objected to because of the following informalities:

Exemplary of such:

Page 3, lines 13-14, it is unclear as to what is meant by ‘correspondingly used joins, strings’.

Page 8, lines 24-25, to correspond correctly with figure 3, ‘301’(line 24) should be replaced with ‘302’ and ‘302’(line 25) should be replaced with ‘301’.

Page 14, line 2, it is unclear as to what is meant by ‘which inflexible.

Appropriate correction is required.

### *Claim Rejections - 35 USC § 112*

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claims 1-7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Art Unit: 1744

Exemplary of such:

Claim 1, line 2, 'the' should be replaced with 'a';

Lines 3-4, 'wherein: said apparatus' should be deleted;

Line 5, it is unclear as to what is meant by 'correspondingly shaped';

Line 7, 'a' should be replaced with 'an';

Line 7, it is unclear as to what is meant by 'angular flexibility range';

Line 8, it is believed 'laterally extending' does not correctly describe the location of the devices; 'positioned'(or the like) may be more appropriate than 'extending';

Line 8, it is unclear as to what is meant by 'main operating axis'; it may be clearer if it was replaced with the 'longitudinal axis of' the appropriate device;

Line 9, 'chiropractic apparatus' should be replaced with 'base', an element that has been said to comprise the apparatus;

Line 9, 'and' would be more appropriately replaced with 'wherein';

Line 11, it is unclear as to what is meant by a 'symmetry axis'.

Claim 3, line 3, it is unclear as to what is meant by 'corresponding shape'.

Claim 4, line 2, it is believed 'removable' should be replaced with 'removably';

Line 3, 'thereto' should be inserted after 'devices';

Line 5, 'on' should be replaced with 'one';

Line 5, it is unclear as to whether the 'at least one of said number' is the same as that in line 3 or distinct there from.

Claim 5, line 2, 'the' should be replaced with 'a';

Art Unit: 1744

Line 7, it is unclear as to what constitutes a scrubbing device 'shape' or 'position';

Line 9, it is unclear as to what constitutes a soaping device 'shape' or 'position';

Line 11, it is unclear as to what constitutes a brushing device 'shape' or 'position';

Line 14, 'occupy' may be more appropriately replaced with 'define';

Line 16, it is unclear as to what is meant by 'main operation axis'; it may be clearer if it was replaced with the 'longitudinal axis of' the appropriate device;

Line 17, 'chiropody apparatus' should be replaced with 'base', an element that has been said to comprise the apparatus;

Line 18, it is unclear as to what is meant by a 'symmetry axis'.

Claim 6, line 2, it is believed 'removable' should be replaced with 'removably';

Line 6, 'on' should be replaced with 'one';

Line 6, it is unclear as to whether the 'at least one' is the same as that in line 3 or distinct there from.

Claim 7, line 1, the preamble sets forth a providing self assisted 'chiropody' however the claim sets forth providing/positioning a 'chiropody apparatus'; Applicant should provide steps that 'provide self assisted chiropody';

Line 2, it is unclear as to what is meant by 'main operation axis';

Line 3, it is believed that 'wedge shaped front' does not properly describe the apparatus; a wedge typically has a pointed front that expands out towards the back. Is this what Applicant means?

Art Unit: 1744

Line 4, 'the' should be replaced with 'a';

Line 7, it is unclear as to what constitutes 'snuggly';

Line 9, it is unclear as to what is meant by a 'symmetry axis'.

***Claim Rejections - 35 USC § 102***

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

10. Claims 1 and 7 are rejected under 35 U.S.C. 102(a,e) as being clearly anticipated by Bjelkevig.

Bjelkevig discloses a base correspondingly shaped to a corner region (fig. 1, #10).

Bjelkevig discloses a number of chiropody devices (fig. 2, #24).

Bjelkevig discloses the main operating axis corresponding to the symmetry axis of two walls (col. 4, lines 41-47 and 56-58).

With respect to claim 7, the apparatus of Bjelkevig would inherently provide the claimed method.

11. Claims 1 and 7 are rejected under 35 U.S.C. 102(a,e) as being clearly anticipated by McClain.

Art Unit: 1744

McClain discloses a base correspondingly shaped to a corner region (fig. 1, #10).

McClain discloses a number of chiropody devices (fig. 5, #16).

McClain discloses the main operating axis corresponding to the symmetry axis of two walls (figs. 6-7).

With respect to claim 7, the apparatus of McClain would inherently provide the claimed method.

12. Claims 1 and 7 are rejected under 35 U.S.C. 102(a,e) as being clearly anticipated by Finch.

Finch discloses a base correspondingly shaped to a corner region (fig. 4, #14).

Finch discloses a number of chiropody devices (fig. 5, #16,24,26).

Finch discloses the main operating axis corresponding to the symmetry axis of two walls (col. 4, lines 10-14).

With respect to claim 7, the apparatus of Finch would inherently provide the claimed method.

#### ***Allowable Subject Matter***

13. Claim 5 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action.

14. Claims 2-4 and 6 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action.



Art Unit: 1744

15. The following is a statement of reasons for the indication of allowable subject matter: the prior art discloses a chiropody apparatus having a base correspondingly shaped to a corner region having a number of chiropody devices with the main operating axis of the apparatus corresponding to a symmetry axis of the two walls forming the corner region HOWEVER fail to disclose or fairly suggest the number of chiropody devices including a brushing device, a soaping device and a scrubbing device OR the base including a clamping means for removably holding at least one of the number of chiropody devices and the at least one of chiropody devices having a fixture correspondingly shaped to the clamping means.

### *Conclusion*

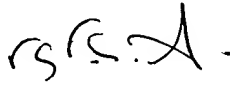
16. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Courtney et al. discloses a mop having a triangular shaped front. McKen discloses a bowl having a triangular shape. Carlin et al. and Aragona disclose a chiropody apparatus having a wedge shape.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Theresa T. Snider whose telephone number is (703) 305-0554. The examiner can normally be reached on Monday-Wednesday (6:30AM-3:00PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert J. Warden can be reached on (703) 308-2920. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 879-9310 for regular communications and (703) 305-3599 for After Final communications.

Art Unit: 1744

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

A handwritten signature in black ink, appearing to read 'TTS.A'.

Theresa T. Snider  
Examiner  
Art Unit 1744

TTS  
June 16, 2003